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U.S. DISTRICT COURT
EASTERN DIST. TENN.

DEPT. CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

FORD MOTOR COMPANY, a Delaware
corporation,

Plaintiff,

vs.

HERITAGE MANAGEMENT GROUP,
INC., a Tennessee corporation, and MARC A.
COLLINS, an individual,

Defendants.

**PLAINTIFF FORD MOTOR
COMPANY'S APPLICATION FOR *EX*
PORTE SEIZURE ORDER AND
MOTION FOR *EX PARTE* TEMPORARY
RESTRAINING ORDER AND
EXPEDITED DISCOVERY**

Civil No.: 1:11-CV-92

Hon. Curtis L. Collier

Magistrate Judge Susan K. Lee

FILED UNDER SEAL

Pursuant to 15 U.S.C. § 1116(D), Plaintiff Ford Motor Company ("Ford"), by and through its counsel, respectfully submits this application for the entry of an *ex parte* order to seize goods bearing counterfeits of the FORD®, FORD Script in Oval®, MOTORCRAFT®, and/or the Speeding Car Design® trademarks (collectively the "Ford Marks"), the means of making such marks, and any records documenting the manufacture, sale, or receipt of all things involved in the Defendants' infringement. Specifically, as detailed more fully in Ford's accompanying "Memorandum In Support Of Motion For *Ex Parte* Seizure Order And For *Ex Parte* Temporary Restraining Order And Expedited Discovery" ("Ford's Memorandum"), and the supporting documents filed with Ford's Memorandum, Defendants Heritage Management

Group, Inc. (“Heritage”) and Marc A. Collins (“Collins”) (collectively “Defendants”) are using counterfeits of the Ford Marks in connection with the sale, offering for sale, or distribution of automotive parts, including without limitation, remanufactured fuel injector assemblies. Ford respectfully requests that the Court enter an *ex parte* seizure order in the form included within the document submitted with this Motion as Exhibit 1.

Pursuant to FED. R. CIV. P. 65(b) and 15 U.S.C. § 1116(a) and (d), and as detailed more fully in Ford’s Memorandum and supporting documents, Ford also moves this Court for the issuance of an *ex parte* temporary restraining order immediately restraining the Defendants from: (1) selling, offering for sale, manufacturing, supplying, distributing, or advertising any goods or services, or any labels or packaging, bearing any unauthorized or non-genuine Ford Marks, or any other mark that is likely to cause confusion among consumers and/or the public; (2) destroying, erasing, or altering any evidence relevant to the issues raised by the Verified Complaint on file in this matter; (3) discussing or notifying any party of this action or any order issued in this action, including the Defendants’ suppliers, manufacturers, or distributors, until such information is of public record. Specifically, Ford requests that the Court enter an *ex parte* temporary restraining order in the form included within the document attached with this Motion as Exhibit 1.

The undersigned counsel for Ford certify that they have not made any efforts to give Defendants notice of this request for an *ex parte* temporary restraining order. As detailed more fully in Ford’s Memorandum and supporting documents, issuance of the requested *ex parte* temporary restraining order is appropriate because this case involves counterfeit marks and is being requested in connection with this Motion seeking an *ex parte* seizure order and on Ford’s Motion for Preliminary Injunction (to be filed by Ford). As Section 1116(d)(10)(A) requires that a follow-up hearing after the issuance of an *ex parte* seizure order shall be held not be sooner

than ten (10) days after the order is issued and not later than 15 days after the order is issued (unless good cause is shown), while a temporary restraining order expires within ten (10) days of entry (unless good cause is shown), Ford moves the Court to find that good cause exists for the Court to extend the term of the temporary restraining order until the follow-up hearing on the *ex parte* seizure order as a means of conserving judicial resources and to allow the parties to appear and be heard on both matters at the same hearing.

Finally, pursuant to FED. R. CIV. P. 26(d), Ford moves this Court for limited expedited discovery from Defendants, which discovery shall be produced by Defendants to Ford, no later than three days prior to the date set for the follow-up hearing on the Motion for preliminary injunction and *ex parte* seizure order. Specifically, Ford requests the production of the information, documents, and things detailed within the form of Proposed Order attached with this Motion as Exhibit 1.

REQUEST FOR ORAL ARGUMENT

Ford respectfully requests that the Court hold oral argument on the issues raised by this Motion.

Accordingly, Ford respectfully requests that this Court:

- (1) Schedule oral argument on this Motion on an expedited basis at the Court's earliest convenience;
- (2) Enter an *ex parte* seizure order pursuant to 15 U.S.C. § 1116(d) in the form included within the Proposed Order attached with this Motion as Exhibit 1;
- (3) Enter *ex parte* a temporary restraining order pursuant to FED. R. CIV. P. 65(b) in the form included within the Proposed Order attached with this Motion as Exhibit 1;

- (4) Schedule a follow-up hearing on Ford's Motion for Preliminary Injunction (to be filed) and on the *ex parte* seizure order no sooner than ten (10) days from the issuance of the *ex parte* seizure order and no later than fifteen (15) days from the issuance of that order;
- (5) Enter an order requiring the Defendants to produce to Ford the information, documents, and things requested in Exhibit 1 submitted with this Motion, which discovery shall be produced by Defendants to Ford, no later than three (3) days prior to the date set for the hearing on the Motion for Preliminary Injunction and *ex parte* seizure order; and
- (6) Grant such other relief as the Court deems just and proper.

DATED this 25th day of April, 2011.

Respectfully submitted,

CHAMBLISS, BAHNER & STOPHEL, P.C.



Alicia Brown Oliver (BPR #018164)

Jeffrey G. Granillo (BPR #027259)

1000 Tallan Building

Two Union Square

Chattanooga, Tennessee 37402

Phone: (423) 757-0206

Facsimile: 423.508.1246

Email: aoliver@cbslawfirm.com

Email: jgranillo@cbslawfirm.com

Gregory D. Phillips

Email: gdp@hpalaw.com

Scott R. Ryther

Email: sryther@hpalaw.com

HOWARD, PHILLIPS & ANDERSEN

560 East 200 South, Suite 300

Salt Lake City, Utah 84102

Phone: (801) 366-7471

Attorneys for Plaintiff Ford Motor Company